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Paper No. 17

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NOV 23 2004

In re Application of
Dennis et al.
Application No. 09/493,601
Filed: January 28, 2000
Attorney Docket No. UCSD0-078-2

OFFICE OF PETITIONS

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, and supplemented October 4, 2004, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A reply and three month extension of time were filed. However, the reply was determined to be improper. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 26, 2002. A Notice of Abandonment was mailed on January 14, 2003.

A petition under 37 CFR 1.137(b) was filed on June 30, 2003. The petition, the envelope, the disk, and the new page of sequence listing were placed in the file jacket but were subsequently ignored. The file was not forwarded to the Office of Petitions. The disk was not forwarded to the correct part of the Office. The Office charged the petition fee per a credit card authorization submitted with the petition.

On October 4, 2004, a new law firm submitted a petition under 37 CFR 1.137(b) along with a copy of the previously filed petition. The new petition was accompanied by a reply to the September 25, 2001 Office action.

The Office has in essence received two replies to the September 25, 2001 Office action. Based on the facts, the Office will enter the reply filed on October 4, 2004. The reply and disk filed June 30, 2003, will be retained in the file but will not be used for prosecution purposes.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

As of October 1, 2004, the fee for a petition under 37 CFR 1.137(b) was increased to \$685. Upon receiving the check for \$665 with the most recent petition, the Office charged \$20 to Foley & Lardner's deposit account for the remainder of the fee. However, the fee was previously paid in full during June of 2003. The sum of \$685 will be credited to deposit account no. 50-0872.

The July 7, 2003, revocation of prior power of attorneys, power of attorney, and change of correspondence cannot be entered because the record fails to establish that the University of California is a full assignee of the application. A showing in compliance with 37 CFR 3.73(b) must be filed. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The file is now being forwarded to Technology Center Art Unit 1652 for consideration of the papers filed with the petition.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Petitions Attorney
Office of Petitions